

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

RUTH SMITH, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

SUNPATH, LTD.,

Defendant.

Case No. 1:22-cv-00081-LMB-TCB

**DEFENDANT SUNPATH, LTD.'S MOTION TO STRIKE
PLAINTIFF'S MOTION FOR CLASS CERTIFICATION**

Defendant SunPath, Ltd. ("SunPath"), pursuant to Federal Rules of Civil Procedure 6 and 16 and Local Civil Rules 7 and 37, moves to strike Plaintiff Ruth Smith's untimely Motion for Class Certification, ECF No. 49. The grounds for this Motion are more fully articulated in the Memorandum in Support, filed contemporaneously herewith.

LOCAL CIVIL RULES 7(E) and 37(E) STATEMENT

On December 12, 2022, counsel for SunPath and counsel for Plaintiff engaged in a meet-and-confer conference via telephone, regarding Plaintiff's intention to file a motion for class certification, during which SunPath informed Plaintiff that the deadline for filing such a motion had passed. The parties were unable to come to an agreement. The conference ended with the understanding that Plaintiff would move forward with filing a motion for class certification without first seeking leave of Court, then SunPath would file a motion to strike. Plaintiff filed her Motion for Class Certification on December 14, 2022. Therefore, SunPath has filed this Motion to Strike.

On December 15, 2022, at the Final Pretrial Conference, the Court asked that the hearing on this Motion to Strike be set for Thursday, December 22, 2022. On December 15, 2022, the parties agreed that SunPath would file its Motion to Strike on December 15, 2022. Plaintiff's response in opposition will be due Tuesday, December 20, 2022 at 5:00 pm. SunPath's reply will be due as soon as possible on Wednesday, December 21, 2022.

Dated: December 15, 2022

Respectfully submitted,

SUNPATH, LTD.

By Counsel

/s/ Gregory M. Caffas

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CERTIFICATE OF SERVICE

I hereby certify that I caused the above and foregoing Defendant SunPath, Ltd.'s Motion to Strike Plaintiff's Motion for Class Certification to be served upon counsel of record in this case via the U.S. District Court CM/ECF System on December 15, 2022.

/s/ Gregory M. Caffas

Gregory M. Caffas